

Applicants: George J. Christ et al.
Serial No: 10/579,705
Filed: October 31, 2008
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REMARKS

Claims 1, 4-12, 15, 19-36, 38, and 42-44 were pending in the subject application. By this Amendment, Claims 4-6, 10 and 24 have been canceled without prejudice or disclaimer, and Claims 1, 12, 15 and 27 have been amended. Accordingly, upon entry of this amendment, Claims 1, 7-9, 11-12, 15, 19-36, 38, and 42-44 will be pending. Applicants maintain that the amendments to the claims do not raise an issue of new matter. Support for the amendments to Claim 1 can be found at least in Claims 5-6 and 10. Support for the remaining claim amendments can be found at least in the previous version of the claims. Accordingly, entry of the amendments is respectfully requested.

Restriction Requirement

The Examiner required that applicants elect a single invention to which the claims must be restricted from the following groups:

- I. Claims 1, 4-12, 15, 19-23, 25-36, 38, and 42-44, drawn to an *in vivo* method of regulating smooth muscle tone in a subject; and
- II. Claim 24, drawn to a method of regulating smooth muscle tone in a subject comprising the steps of transfecting cells *ex vivo* and transplanting the transfected cells into the subject.

In reply, applicants elect, without traverse, Group I, i.e. claims drawn to an *in vivo* method of regulating smooth muscle tone in a subject.

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Election of Species Requirements

The Examiner required that applicants elect a single species from each of the following four categories to which the claims shall be restricted if no generic claim is finally held to be allowable:

- 1) a single specific smooth muscle cell type - applicants elect penile smooth muscle;
- 2) a single specific potassium channel protein - applicants elect maxi K;
- 3) a single specific introduced method - applicants elect naked DNA transfer; and
- 4) a single specific dysfunction - applicants elect erectile dysfunction.

These elections are made without traverse. Claims 1, 7-9, 11, 19-22, 25-30, 33, 35-36, and 43-44 are readable on the elections.

Supplemental Information Disclosure Statement

This Supplemental Information Disclosure Statement is being filed to supplement the Information Disclosure Statements filed on May 18, 2006 and August 30, 2007 in connection with the subject application. In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the three references that are listed on the attached form PTO/SB/08B (1 page) and attached hereto.

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CONCLUSION

A check for \$1,175.00 is enclosed to cover the fee for a small entity for a five month extension of time. No other fee is deemed necessary in connection with the filing of this Amendment and Information Disclosure Statement. However, if any other fee is required to preserve the pendency of the subject application, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 01-1785. Overpayments may also be credited to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Applicants
90 Park Avenue
New York, New York 10016
(212) 336-8000

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New York, New York

By


Alan D. Miller, Reg. No. 42,889